

# United States Department of Agriculture

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25551-25650

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 9, 1936]

**25551. Adulteration of tomato paste, tomato puree, and tomato catsup; and misbranding of tomato paste. U. S. v. Brocton Preserving Co., Inc. Plea of guilty. Fine, \$160. (F. & D. no. 34060. Sample nos. 68388-A, 71634-A, 14600-B, 21570-B, 25876-B, 25952-B, 26049-B, 29042-B.)**

A decomposed substance was found in each of these products. One of them was so colored as to conceal damage, and the label of another bore an erroneous statement concerning its color.

On October 7, 1935, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Brocton Preserving Co., Inc., Brocton, N. Y., alleging shipments in violation of the Food and Drugs Act as amended, in the period from October 18, 1933, to May 21, 1935, from Brocton, N. Y., in one instance, and from Fredonia, N. Y., in all the other instances, to places in Connecticut, Massachusetts, Rhode Island, and Vermont of quantities of tomato paste, tomato puree, and tomato catsup of which the tomato paste was adulterated and misbranded and the two other articles were adulterated. The articles were labeled in part: (Can) "Fedora Italian Style Tomato Paste \* \* \* Contents 6 Oz. Avoir. \* \* \* Salsa Pura Di Pomodoro Con Basilico Packed By Brocton Preserving Co. Brocton, New York"; (can) "Oswego Brand Tomato Puree Contents 6 Lb. 8 Oz. \* \* \* Oswego Preserving Co. Oswego, N. Y. Distributors"; (can) "Brocton Brand Contents 7 Lbs. 2 Ozs. Net Tomato Ketchup Brocton Preserving Co., Brocton, N. Y."; (can) "Fedora Italian Style Tomato Paste Harmless Color Added."

Adulteration of the paste, puree, and the catsup was charged under the allegation, with respect to each, that it consisted in part of a decomposed vegetable substance. Adulteration of the paste was further charged (a) under the allegation that it was colored in a manner whereby its damage and inferiority were concealed; (b) under the allegation that a product containing no basil had been substituted for said article.

Misbranding of the paste was charged (a) under the allegations that there were borne on the cans the statements, to wit, "Tomato Paste \* \* \* Salsa Pura Di Pomodoro", that the said statements represented the article to be naturally colored tomato paste, and that the said statements were false and misleading; and (b) under the allegation that the aforesaid statements were borne on the cans so as to deceive and mislead the purchaser of the article.

On January 14, 1936, a plea of guilty having been entered, a fine of \$160 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25552. Misbranding of peanut butter. U. S. v. Martin Peanut Products Corporation. Plea of guilty. Fine, \$15. (F. & D. no. 34068. Sample nos. 3727-B, 3730-B.)**

This case was based on a shipment of peanut butter which was short in weight.

On July 3, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Martin Peanut Products Corporation,